

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT Z-1170925 AND ALL
OTHER SEAMAN'S DOCUMENTS

Issued to: George E. YOUNG

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1809

George E. YOUNG

This appeal has been taken in accordance with Title 46 United States Code 239 (g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 17 April 1969, an Examiner of the United States Coast Guard at Jacksonville, Florida, after a hearing held at Miami, Florida, suspended Appellant's seaman's documents for one month plus two months on eighteen months' probation upon finding him guilty of misconduct. The specification found proved alleges that while that while serving as a saloon messman on board SS P. C. SPENCER under authority of the document above captioned, on or about 10 April 1969, Appellant disobeyed a lawful order of the master to call the vessel's steward.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence voyage records of SS P. C. SPENCER and stipulated recorded testimony of certain witnesses.

In defense, Appellant offered in evidence his own testimony.

At the end of the hearing, the Examiner rendered a decision in which he concluded that the charge and specification had been proved and then entered an order suspending all documents issued to Appellant for a period of one month plus two months on eighteen months' probation.

The entire decision was served on 5 May 1969. Appeal was timely filed on 23 May 1969. Although Appellant had until 6 October 1969 to perfect his appeal, no further material has been filed.

FINDINGS OF FACT

On 10 April 1969, Appellant was serving as a saloon messman on board SS P.C. SPENCER and acting under authority of his document while the ship was at sea.

On that date, while Appellant was serving a meal, the master of the vessel complained of the stale state of the crackers served to the table. The master ordered Appellant to call the steward. Appellant did not call the steward and replied to the master that if he wanted the steward he should get him himself.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the master and the witnesses aboard the ship were racially prejudiced against Appellant and that the Investigating Officer and the Examiner at hearing were also so prejudiced that Appellant did not receive a fair hearing.

APPEARANCE: Appellant, pro se.

OPINION

I

Appellant urges that racial discrimination is the cause both of the events that took place aboard SS P. C. SPENCER and of the treatment he received from the Investigating Officer and the Examiner at hearing.

The latter allegation finds no support in the record at all. The Examiner weighed the evidence on both sides. He decided that the collateral matters were probably better described by the other witnesses than by Appellant, i.e., that Appellant's tone and manner were strident and abusive rather than the master's. This finding was based partially on Appellant's tone and manner at the hearing.

The single issue to be considered by the Examiner was whether a lawful order had been given and disobeyed. It does not matter what the personal prejudice or bias of the master might have been; if the order was lawful, it was to be obeyed. See Decision on Appeal No. 1210.

II

When the master, dissatisfied with the operation of the steward's department during a meal, ordered Appellant to call the steward to report to the master, it was a lawful order. When Appellant not only failed to get the steward but told the master to do it himself, there was an insubordinate refusal to obey the

order.

It is noted that both at the hearing and on appeal Appellant has admitted that the master gave him the order and that he refused to obey it.

III

It is unfortunate that some stale crackers should have caused such a tempest in a teapot. Whether Appellant is correct in his assertion that the master was a prejudiced person or is so hypersensitive as to react improperly to a fancied affront, a seaman must recognize that lawful orders must be obeyed and that insubordinate attitudes aboard a ship, even if somehow provoked, cannot be tolerated any more than an assault and battery can be justified by mere words alone. The remedy for such affronts, real or fancied, lies elsewhere than in disobedience to orders.

IV

Appellant has already served the outright period of the suspension ordered. No useful purpose will be served by placing him on probation so that a future offense might result in an automatic or increased suspension. The remedial purposes of these proceedings can be achieved by approving the findings and outright suspension leaving Appellant with a prior record and remitting the period of probation, so that any future order will be determined by the merits of the future case alone, in light of the order hereby approved.

ORDER

The order of the Examiner dated at Jacksonville, Florida, on 17 April 1969, is MODIFIED. The final order is that Appellant's documents were suspended for one month from 5 May 1969.

C. R. BENDER
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 6 day of August 1970.

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